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10/824,028	04/13/2004	Stephen Byng	18266US01	6043
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EXAMINER				
YOO, JASSON H				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/824,028

Applicant(s)

BYNG, STEPHEN

Examiner

Jasson H. Yoo

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 74-77, 79, 80 and 82-102 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 74-77, 79-80, 82-102 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 95-102 are rejected under 35 USC 101 as being directed to non-statutory subject matter because these are method or process claims that do not transform underlying subject matter (such as an article or materials) to a different state or thing, nor are they tied to another statutory class (such as a particular machine). See *Diamond v. Diehr*, 450 U.S. 175, 184 (1981) (quoting *Benson*, 409 U.S. at 70); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978) (citing *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)). See also *In re Comiskey*, 499 F.3d 1365, 1376 (Fed. Cir. 2007) (request for rehearing *en banc* pending). Claims 95-102 are directed to a method of implementing cooperative gaming. The method includes the steps of monitoring gaming machines, offering players, monitoring operation of the gaming machine, detecting a change, allowing games to be completed, and determining a prize. However, the claims do not specify how any of these steps are performed by a particular machine. Furthermore the claims do not transform the underlying subject matter to a different state or thing.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 84-102 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims recite, "allowing any individual games that were in progress at the time of the occurrence of the change to complete prior to recording a credit meter status and win amount for each of the gaming machines since the last change." Applicant's specification fails to teach that control unit allows any individual games that were in progress at the time of the occurrence of the change to complete prior to recording a credit meter status and win amount for each of the gaming machines since the last change."

Claims 85 and 96 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant specification fails to disclose an enhanced game play features are enabled by the control unit when a number of total credits wagered in the cooperative gaming environment reaches a predetermined threshold

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 74-77, 79-80, 82-102 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 74-77, 79-80, 82-83 incorporate the claim limitation of, "receive an acceptance to join said cooperative gaming environment, said winning amount, a change of said wager, and a change of a number of said joined gaming machines in a said cooperative game of a said cooperative gaming environment." It is not clear how a game controller receive an acceptance to join said winning amount, a change of said wager, and a change of a number of said joined gaming machines in a said cooperative game of a said cooperative gaming environment.

Claim 74 recites the limitation "said change" in lines 25-26. There is insufficient antecedent basis for this limitation in the claim. More specifically, it is not clear what is being changed. There can be a change in wager, number of gaming machines, or change in rule.

Claim 84-102, the claims recite, "allowing any individual games that were in progress at the time of the occurrence of the change to complete prior to recording a credit meter status and win amount for each of the gaming machines since the last change." Applicant's specification fails to teach that control unit allows any individual games that were in progress at the time of the occurrence of the change to complete prior to recording a credit meter status and win amount for each of the gaming machines since the last change."

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 74-77, 79-80, 82-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (US 2003/0064807).

Claim 74. Walker discloses a gaming system (100a in Figs. 1a, 1b) comprising:

a plurality of gaming machines (104, 106, 108, 112, 114 in Figs. 1a, 1b), each machine having an input interface (312 in Fig. 3), selectively joining a cooperative gaming environment (network game illustrated in Figs. 1 and 2, paragraph 74), contributing a wager to join a cooperative game in said environment (paragraph 57), and allocating a winning amount from winning a second cooperative game at said gaming machine to a prize pool (paragraphs 30, 57-58, 121);

a game controller (server 102 in Figs. 1a, 1b), connected to said plurality of gaming machines, and configured to:

interact with at least one of said input interfaces in order to present an invitation to allow a person to accept to join a cooperative gaming environment (As indicated in Applicant's specification, paragraph 65, it is interpreted that "joining a cooperative gaming environment" is a user providing interest to the to play a multiplayer game and

communicates with the server. Walker discloses a person accepts to join a cooperative gaming environment by showing interest to play a multiplayer game. This can be done by an indication to establish group format and objectives, opening "create a group for linked play" registering for group play, See Fig. 5, and paragraphs 77, 86 90, 123, 144-145, i.e. Fig. 5);

receive an accepting to join said cooperative gaming environment (as discussed above, a person accepts to join a cooperative gaming environment by showing interest and communicating with the server), said winning amount, a change of said wager, and a change of number of said joining gaming machines in a said cooperative game of said cooperative gaming environment (This limitations is interpreted as, the game controller receives information joining the cooperative gaming environment, and when a person joins the gaming environment, the person can change the criteria for the winning amount, wager, number of joining machines. Walker disclose that these are part of the establishing a group format and a group objective, see paragraphs 57-58, 79, 90, 123, 144-145),

establish at least one rule for said cooperative game that can be played by the cooperative gaming environment after the receipt of said acceptance ("Create a group for linked Play" is stored remotely and a server. Thus accessing this information, accepting to join the cooperative gaming environment since the user shows interest and is connected to the server. The User can establish one of the rules. See paragraphs 57-58, 79, 90, 123, 144-145 and Fig. 4);

interact with at least one visual display device of the gaming machine in order to present the at least one rule of the cooperative game to allow the person to accept said at least one rule prior to commencing the cooperative game (A user can press Finished button 532 to accept the rules, Fig. 5, paragraph 90.); and

to complete said cooperative game that is already in progress at said participating gaming machine in response to a withdrawal of said gaming machine from said cooperative gaming environment or to a said change of wager (The game controller completes the cooperative game in response to a withdrawal of the a gaming machine according the group format. As indicated in paragraph 57, group format set rules so the game can be played even when a group member leaves the group. Paragraphs 253-254, and 256 also describes when a group member leaves the group.), to record said winning amount (Winnings are part of the group objective/format, and is tracked and stored in a database, see paragraphs 57, 58, 79, 97, 101, 112, Fig. 7), and to record said change subsequent to presenting the at least one rule to the person and prior to commencing a new said cooperative game (Changes in wager and winnings are tracked, since they are part of the groups objective/format, and is tracked and stored in a database, see paragraphs 57, 58, 79, 182 Fig. 7).

distribute said prize pool based a number of joined gaming machines and said winning amount (distribute reward amount whole group/particular group members, paragraphs 30, 57-58, 121, 186, 187, 188)

Walker discloses the claimed invention as discussed above but fails to explicitly disclose that the person is presented with an option on the gaming machine to withdraw

from the cooperative gaming group. Nevertheless, it is implied or would have been obvious to one of ordinary skilled in the art to modify Walker and allow the person to withdraw from the gaming environment subsequent to presenting the at least one rule to the person and prior to commencing the cooperative game. As discussed above, Walker discloses that each group member may establish the rules prior to commencement of the game (establish group's objective and format, paragraph 145). When users choose different aspects of a group format they desire, they may be placed by the casino server into different groups (paragraph 145). Therefore it is implied that an option is present for the user to withdraw from the current group and join a different group according to his/her preferred rules. Furthermore, Walker discloses that the members may quit the group during linked play (paragraph 253). Walker also discloses that the steps of providing the group play (as illustrated in Fig. 12) may be practiced in any order, sequence, and/or timing that is practicable (paragraph 117). It would have been obvious and it is common sense to present an option to allow the person to withdraw or quit from the group in the order prior to commencement of the game and after the rules are presented if the person does not like the rules for the group play. Otherwise the person will be obligated to play in the group play without agreeing with the rules. Therefore it would have been obvious to one of ordinary skilled in the art the time the invention was made to modify Walker and present an option to withdraw from the cooperative gaming environment subsequent to presenting the at least one rule to the person and prior to commencing the cooperative game in order to allow the person

quit the cooperative gaming environment if the person does not like the rules for the group play.

Claim 75. Walker discloses at least a minimum number of persons joined in the cooperative gaming group (paragraph 229); and allowing the cooperative game to commence if it is determined that the minimum number of persons have joined the cooperative gaming group (paragraph 229, §3 in Fig. 12).

Claim 76. Walker discloses prompting the person to provide rule information; and establishing the at least one rule based on the rule information (group members choose the format and objectives using the gaming devices, paragraphs 144-145).

Claim 77. Walker discloses allowing the person to specify how much the person wishes to wager during play of the cooperative game play (paragraph 67, discloses specifying the wager amount as a group format).

Claim 79. Walker discloses establishing at least one rule occurring following the person to join (It is interpreted that to join refers to joining or registering to the cooperative gaming environment. See rejection for claim 74 since establishing the at least one rule occurs after receipt of the acceptance.).

Claim 80. Walker discloses that the allowing of a person to withdraw from the cooperative gaming environment occurs following the presenting of the at least one rule (See rejection for claim 74 above since allowing the person to withdraw is subsequent to presenting the at least one rule to the person.).

Claim 82. Walker discloses establishing of at least one rule includes changing the at least one rule (Rules can include changes of the rules, i.e. when a group member leaves; paragraph 57. Furthermore, the player established rule may change if the group members choose a different rule; paragraph 145.).

Claim 83. Walker discloses the game controller is further configured to present another rule during the cooperative game (Walker discloses that multiple rules are available for the cooperative game, paragraphs 57-58, 253-254).

Claims 84, 95. See rejection for claim 74 above. More specifically, Walker discloses the control unit (server) monitors a change of amount wagered by any of the gaming machines. Changes in wagers are tracked, since they are part of the group's objective/format, see paragraphs 32, 57, 58, 182, and can be used to distribute the pool amount). Although Walker fails to explicitly disclose that the control unit monitoring number of gaming machines participating, it is implied or obvious that the server detects the number of gaming machines since the group formats/objectives defines rules when a person leaves. See rejection for claim 74 for details.

Regarding the claim limitation of "in response to detecting an occurrence of the change, allowing any individual games that were in progress at the time of the occurrence of the change to be completed prior to recording a credit meter status and win amount for each of the game machines since the last change", it appears that this limitations is directed to allowing changes in the amount of wagers or changes to the number of gaming machines during the group play session. As discussed above, Walker teaches that the group play allows changes in the amount of wager or the number players, and the winnings are divided accordingly (paragraphs 30, 57, 182, 186-188)

to record said winning amount (Winnings are part of the group objective/format, and is tracked and stored in a database, see paragraphs 57, 58, 79, 97, 101, 112, Fig. 7), and to record said change subsequent to presenting the at least one rule to the person and prior to commencing a new said cooperative game (Changes in wager and winnings are tracked, since they are part of the groups objective/format, and is tracked and stored in a database, see paragraphs 57, 58, 79, 182 Fig. 7).

distribute said prize pool based a number of joined gaming machines and said winning amount (distribute reward amount whole group/particular group members, paragraphs 30, 57-58, 121, 186, 187, 188, 253-254, 256).

Claims 85, 96. Walker discloses enhanced game play features are enabled by the control unit when a number of to credits wagered in the cooperative gaming

environment reaches a predetermined threshold (enhanced features receiving the group prize, paragraph 57, 274).

Claims 86, 98. Walker discloses rules-establishing module for determining general operating conditions (object/format, paragraphs 57-58)

Claims 87, 99. Walker discloses the rules-establishing module relies, at least in part, on player input in establishing the rules (Fig. 5, paragraph 90).

Claim 88. Walker discloses rules relate to requirement for new player entering the gaming environment and existing player exiting the cooperative gaming environment (paragraphs 57, 253-254, 256).

Claims 89, 100. Walker discloses comprising a display arranged to display the established rules of the cooperative gaming environment (i.e. Fig. 4, 5).

Claim 90. Walker discloses allocating module of allocating the individual games (server allocates, and calculate individual game play, paragraphs 30, 32, 57-58, 182, 186-188).

Claims 91, 02. Although Walker fails to explicitly discloses a mixture of higher volatility and lower volatility individual games, Walker discloses that "various" type of

games can be played for group play (paragraph 110, 1004 in Fig. 212). Thus it is implied that different game with such as 3 reel slots, video poker, 5 reel slots with different volatility are played. Otherwise it would have been obvious to one of ordinary skilled in the art to modify Walker's system and allow a mixture of higher volatility and lower volatility individual games since walker discloses various type of games can be played.

Claim 92. The control unit allows player of the participating gaming machine to adopt different game play strategies so that risk is distributed between players (As discussed above players can wager different amount. Thus different wagering strategies can be applied.).

Claim 93. A separate prize pool is maintained for each of the participating gaming machines (individual total winnings, "separate prize pool" are calculated to determine winnings, see paragraphs 30, 32, 57-58, 182, 186-188, 274).

Claim 94. The control unit is further arranged to carry out steps b and c in response to determine a zero credit meter balance for any one of the participating gaming machines (individual finances, and individual net winnings are calculated and thus the calculates when there's a zero credit meter, see paragraphs 56, 97, 107, 143, 187, 199)

Claim 97. The player electing at their option whether or not to compete in the cooperative gaming environment (player can decide whether to compete or not, i.e. by declining as illustrated in Fig. 4).

Claim 101. See rejection for claim 74 above. Walker discloses that the player can withdraw from the group.

Response to Arguments

Applicant's arguments with respect to claims 74-77, 79-80, 82-102 have been considered but are moot in view of the new ground(s) of rejection. New grounds of rejection using the same art have been made to address the new limitations and the new claims.

Applicant argues that Walker fails to teach withdrawing from the cooperative gaming environment or what happens to the distribution of the prize pool. However, Walker discloses that the game controller completes the cooperative game in response to a withdrawal of the a gaming machine according the group format. As indicated in paragraph 57, group format set rules so the game can be played even when a group member leaves the group. Paragraphs 253-254 and 256 also describe when a group member leaves the group. The prize is distributed according to the whole group or to particular group members as defined by the game object/format (paragraphs 30, 57-58, 121, 186, 187, 188).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JHY

/David L Lewis/
Supervisory Patent Examiner, Art Unit 3714